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Raymond E. Farrell
CARTER, DELUCA, FARRELL & SCHMIDT
445 Broad Hollow Road
Suite 225
Melville, NY 11747

In re Application of
AGRIKLI, Mehmet
U.S. Application No.: 10/575,825
PCT No.: PCT/EP2004/000301
Int. Filing Date: 16 January 2004
Priority Date: 14 October 2003
Attorney Docket No.: 1567-5 PCTUS
For: TWISTING MACHINE CAPABLE OF
INDEPENDENTLY CONTROLLING
TWISTING SPEED AND WINDING
SPEED AND METHOD OF SAME

**DECISION ON PETITION
TO WITHDRAW HOLDING
OF ABANDONMENT**

This decision is in response to the "Petition to Withdraw Holding of Abandonment Under 37 C.F.R. § 1.181(a)" filed on 08 July 2008. No fee is required.

BACKGROUND

On 01 March 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) and a surcharge fee was required. A two-month time limit in which to respond was set with extensions of time available.

On 30 April 2007, applicant purportedly filed an executed declaration in the above-captioned application along with a check of \$65.00 for the surcharge fee.

On 17 June 2008, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) stating that the above-captioned application was abandoned because applicants failed to respond to the Form PCT/DO/EO/905 mailed 01 March 2007 within the time period set.

On 08 July 2008, applicant filed a petition to withdraw the holding of abandonment which was accompanied by, *inter alia*, copies of the documents purportedly filed 30 April 2007 along with a date-stamped postcard receipt.

DISCUSSION

A review of the subject application shows that the 30 April 2007 declaration

purportedly filed in the above-captioned application was not located in the file.

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicant has provided a copy of the date-stamped postcard receipt for documents submitted 30 April 2007. The postcard receipt records that among the papers received in the USPTO included an "Executed Declaration." The postcard receipt is stamped "OIPE APR 30 2007" across its face. The U.S. application number and docket number are listed on the postcard receipt. Applicant also provided a copy of the declaration and response filed 30 April 2007.

Applicant has provided *prima facie* evidence that the declaration was originally received by the USPTO on 30 April 2007.

DECISION

For the reasons noted above, applicant's petition to withdraw the holding of abandonment is **GRANTED**.

The Form PCT/DO/EO/909 mailed 17 June 2008 is hereby **VACATED**.

The declaration originally filed 30 April 2007 is in compliance with 37 CFR 1.497(a) and (b). USPTO financial records do not show that the \$65.00 surcharge fee was received and placed in the subject application. Nonetheless, the \$65.00 fee has been charged to Deposit Account No. 50-2140 as authorized.

Applicant has completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 16 January 2004 under 35 U.S.C. 363, and a 35 U.S.C. 371 date of 30 April 2007.

This application is being forwarded to the Office of Patent Application Processing for further processing in accordance with this decision.



James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (571) 272-3302